



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN  
DIRECTOR

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Date Mailed: September 26, 2024  
MOAHR Docket No.: 24-007832  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

**HEARING DECISION**

Following Petitioner’s request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 28, 2024, from Lansing, Michigan. The Petitioner was represented by ██████████ ██████████ mother and Guardian. The Department of Health and Human Services (Department) was represented by Tamara Jackson, Hearing Facilitator (HF).

During the hearing proceeding, the Department’s Hearing Summary packet was admitted as Exhibit A, pp. 1-36.

**ISSUE**

Did the Department properly determine Petitioner’s eligibility for Medical Assistance (MA) and the Medicare Savings Program (MSP)?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On May ██████ 2024, an application for MA was submitted on Petitioner’s behalf. (Exhibit A, pp. 7-20)
2. On June ██████ 2024, verification of Petitioner’s income was received. (Exhibit A, pp. 25-27)
3. On June ██████ 2024, a Health Care Coverage Supplemental Questionnaire was submitted. (Exhibit A, pp. 21-24)

4. On June █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner approving MA with a monthly deductible of \$█ for June 2024 and \$█ effective July 1, 2024, and approving MSP under the SLMB category. (Exhibit A, pp. 29-35)
5. On June 28, 2024, a hearing request was filed on Petitioner's behalf. (Exhibit A, pp. 3-4)
6. The local Department office subsequently submitted a request for a Disabled Adult Child (DAC) determination for Petitioner, which was approved. (Exhibit A, p. 36; HF Testimony)

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The Medicaid program comprise several sub-programs or categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

MA AD CARE is an SSI-related group 1 MA category. This category is available to persons who are aged or disabled (AD). Net income cannot exceed 100% of the poverty level. BEM 163, July 1, 2017, p. 1.

Group 2 aged, blind, and disabled (Group 2 MA) is an SSI related MA category that available to a person who is aged (65 or older), blind or disabled. BEM 105, January 1, 2024, p. 5; BEM 166, April 1, 2027, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

The Department counts the gross benefit amount of SSA issued Retirement Survivors Disability Insurance (RSDI) benefits as unearned income when determining eligibility. BEM 503, April 1, 2024, pp. 30-31. The Department disregards the annual cost of living increase for RSDI for January, February, and March. BEM 503, January 1, 2023, pp. 30-31.

The Department utilizes a Protected Income Level (PIL) in determining MA eligibility. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, January 1, 2020, p. 1. Tuscola County is part of Shelter Area IV, which has a PIL of \$375.00 for a group size of one. RFT 200, April 1, 2017, p. 3 and RFT 240, December 1, 2013, p. 1.

For SSI related adults, the only deductions allowed to countable income are for court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, a \$20.00 disregard, an earned income disregard of \$65.00 plus ½ of the remaining earnings, and Guardianship/Conservator expenses. BEM 541, January 1, 2024, pp. 1-7.

Income eligibility exists for all or part of the month tested when there is no excess income or the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545, July 1, 2022, p. 1-3.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, July 1, 2022, p. 10-12.

There are four categories that make up the MSP: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); Additional Low-Income Medicare Beneficiaries (ALMB); and Non-Categorically Eligible Michigan Beneficiary (NMB). Income is the major determiner of category. For QMB net income cannot exceed 100% of poverty. For SLMB net income is over 100% of poverty, but not over 120% of poverty. For ALMB net income is over 120% of poverty, but not over 135% of poverty. For NMB, income and assets above allowed ALMB limits but have full coverage Medicaid with Medicare part A/B entitlement. BEM 165, June 1, 2024, p. 1.

RFT 242 addresses the income limits for aged or disabled MA (MA-AD) and the MSP categories. Effective April 1, 2024, for a group size of one the income limit for MA-AD and QMB is \$1,275.00; for SLMB the income limit is \$1,275.01 to \$1,526.00; and for ALMB the income limit is \$1,526.01 to \$1,714.25. The RFT 242 policy notes that these amounts are the applicable percentage of the federal poverty limit plus the \$20.00 disregard for RSDI income. RFT 242, April 1, 2024, p. 1.

Disabled Adult Children (MA DAC) is also an SSI-related Group 1 MA category. MA DAC is available to a person receiving disabled adult children's (DAC) (also called Childhood Disability Beneficiaries' or CDBs') RSDI benefits under section 202(d) of the Social Security Act if he or she:

1. Is age 18 or older; and
2. Received Supplemental Security Income (SSI); and
3. Ceased to be eligible for SSI on or after July 1, 1987, because he became entitled to DAC RSDI benefits under section 202(d) of the Act or an increase in such RSDI benefits; and
4. Is currently receiving DAC RSDI benefits under section 202(d) of the Act; and  
**Note:** To receive DAC RSDI a person must have a disability or blindness that began before age 22.
5. Would be eligible for SSI without such RSDI benefits.

BEM 158, October 1, 2014, p. 1.

In this case, an application for MA was submitted on Petitioner's behalf on May 28, 2024. (Exhibit A, pp. 7-20). On June █ 2024, verification of Petitioner's income was received. Petitioner receives RSDI with a gross monthly benefit amount of \$█ (Exhibit A, pp. 25-27). The Department reviewed eligibility and determined that Petitioner exceeded the income limit for full coverage MA under the AD Category of \$█ Petitioner was eligible for the MSP under the SLMB category, which has an income limit of \$1,275.01 to \$1,526.00.

The Department then considered Group 2 MA. After the \$20.00 disregard and the PIL of \$375.00 are considered, Petitioner has a monthly deductible of \$█ for June 2024. There was no evidence that Petitioner had any of the other allowable deductions (court-ordered child support, blind/impairment related work expenses, allocation to non-SSI

related children, an earned income disregard of \$65.00 plus ½ of the remaining earnings, or Guardianship/Conservator expenses).

On June █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner approving MA with a monthly deductible of \$█ for June 2024 and \$█ effective July 1, 2024, and approving MSP under the SLMB category. (Exhibit A, pp. 29-35). It is unclear why the deductible amount changed effective July 1, 2024. However, Petitioner's eligibility for MA has subsequently been redetermined.

The local Department office submitted a request for a DAC determination for Petitioner, which was approved. Therefore, Petitioner is now eligible for MA under the DAC category. (Exhibit A, p. 36; HF Testimony).

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined Petitioner's eligibility for MA and the MSP.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

CL/dm

  
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**Colleen Lack**  
Administrative Law Judge

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via-Electronic Mail :**

**DHHS**  
Rolando Gomez  
Tuscola County DHHS  
**MDHHS-Tuscola-**  
**Hearings@michigan.gov**

**SchaeferM**

**EQADHearings**

**BSC2HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

**Authorized Hearing Rep.**

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**Petitioner**

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